

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

THE UNITED STATES OF  
AMERICA, STATE OF  
TEXAS, *ex rel,* PAULINE  
MOTTS,

*Plaintiffs,*

v.

EAST EL PASO  
PHYSICIAN'S MEDICAL  
CENTER, LLC, D/B/A/  
FOUNDATION SURGICAL  
HOSPITAL OF EL PASO,  
DON BURRIS, VOX INTUS,  
LLC, DESERT IMAGING  
SERVICES, L.P., IN  
TANDEM SOLUTIONS  
GROUP, LLC, PRINCIPLE  
HS MANAGEMENT LLC  
D/B/A PRINCIPLE  
HEALTH SYSTEMS,  
AMERICAN INSTITUTE OF  
TOXICOLOGY, INC.,  
CONCORD LIFE  
SCIENCES, LLC, AND  
NORTH CENTRAL  
FLORIDA  
NEURODIAGNOSTIC  
SERVICES, LLC,

*Defendants.*

CIVIL ACTION NO. 3:18-cv-00348-FM

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DEFENDANT VOX INTUS, LLC'S ORIGINAL ANSWER

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Pursuant to Federal Rules of Civil Procedure 8, 10, 11, and 12, Defendant Vox Intus, LLC ("Defendant"), files this Original Answer to the United States' Complaint in Intervention (the "Complaint") (Doc. 21) filed by Plaintiff the United States of America ("Plaintiff" or "United States"), and would respectfully state the following:

**INTRODUCTION**

1. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 1 of the Complaint, and therefore denies them.
2. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 2 of the Complaint, and therefore denies them.
3. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 3 of the Complaint, and therefore denies them.
4. Defendant denies the allegations in Paragraph 4 of the Complaint.
5. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 5 of the Complaint, and therefore denies them.
6. Defendant denies the allegations in Paragraph 6 of the Complaint.
7. Defendant denies the allegations in Paragraph 7 of the Complaint.
8. Defendant denies the allegations in Paragraph 8 of the Complaint.
9. Defendant denies the allegations in Paragraph 9 of the Complaint.
10. Defendant denies the allegations in Paragraph 10 of the Complaint.
11. Defendant denies the allegations in Paragraph 11 of the Complaint.
12. Defendant denies the allegations in Paragraph 12 of the Complaint.
13. Defendant denies the allegations in Paragraph 13 of the Complaint.

14. Defendant admits that Defendant Burris served as president of Defendant. Defendant denies the remaining allegations in Paragraph 14 of the Complaint.

**JURISDICTION AND VENUE**

15. The allegations contained in Paragraph 15 of the Complaint relate to legal questions to which no responsive pleading is required.

16. The allegations contained in Paragraph 16 of the Complaint relate to legal questions to which no responsive pleading is required.

17. The allegations contained in Paragraph 17 of the Complaint relate to legal questions to which no responsive pleading is required.

18. The allegations contained in Paragraph 18 of the Complaint relate to legal questions to which no responsive pleading is required.

**PARTIES**

19. The allegations contained in Paragraph 19 of the Complaint relate to legal questions to which no responsive pleading is required.

20. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 20 of the Complaint, and therefore denies them.

21. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 21 of the Complaint, and therefore denies them.

22. Defendant admits that Defendant Burris is the President of Vox. Defendant admits where Defendant Burris currently resides. Defendant denies the remainder of the allegations in Paragraph 22 of the Complaint.

23. Defendant admits that it is a for profit company based in Colorado. Defendant admits that Defendant Burris is the President of Vox. Defendant admits where it may be served. Defendant denies the remainder of the allegations in Paragraph 23 of the Complaint.

24. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 24 of the Complaint, and therefore denies them.

25. Defendant denies that Defendant Burris was “one of the primary architects of this illegal kickback and pass-through billing scheme” as alleged in Paragraph 25 of the Complaint. Defendant is without sufficient information to form a belief as to the truth of the remaining allegations in Paragraph 25 of the Complaint, and therefore denies them.

26. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 26 of the Complaint, and therefore denies them.

#### **LEGAL AND REGULATORY BACKGROUND**

##### **I. THE FALSE CLAIMS ACT**

27. The allegations contained in Paragraph 27 of the Complaint relate to legal questions to which no responsive pleading is required.

28. The allegations contained in Paragraph 28 of the Complaint relate to legal questions to which no responsive pleading is required.

29. The allegations contained in Paragraph 29 of the Complaint relate to legal questions to which no responsive pleading is required.

30. The allegations contained in Paragraph 30 of the Complaint relate to legal questions to which no responsive pleading is required.

31. The allegations contained in Paragraph 31 of the Complaint relate to legal questions to which no responsive pleading is required.

## **II. THE ANTI-KICKBACK STATUTE**

32. The allegations contained in Paragraph 32 of the Complaint relate to legal questions to which no responsive pleading is required.

33. The allegations contained in Paragraph 33 of the Complaint relate to legal questions to which no responsive pleading is required.

34. The allegations contained in Paragraph 34 of the Complaint relate to legal questions to which no responsive pleading is required.

35. The allegations contained in Paragraph 35 of the Complaint relate to legal questions to which no responsive pleading is required.

36. The allegations contained in Paragraph 36 of the Complaint relate to legal questions to which no responsive pleading is required.

## **III. PATIENT PROTECTION AND AFFORDABLE CARE ACT**

37. The allegations contained in Paragraph 37 of the Complaint relate to legal questions to which no responsive pleading is required.

38. The allegations contained in Paragraph 38 of the Complaint relate to legal questions to which no responsive pleading is required.

#### **IV. THE MEDICARE PROGRAM**

39. The allegations contained in Paragraph 39 of the Complaint relate to legal questions to which no responsive pleading is required.

40. The allegations contained in Paragraph 40 of the Complaint relate to legal questions to which no responsive pleading is required.

41. The allegations contained in Paragraph 41 of the Complaint relate to legal questions to which no responsive pleading is required.

42. The allegations contained in Paragraph 42 of the Complaint relate to legal questions to which no responsive pleading is required.

43. The allegations contained in Paragraph 43 of the Complaint relate to legal questions to which no responsive pleading is required.

##### **A. Medicare Part A**

44. The allegations contained in Paragraph 44 of the Complaint relate to legal questions to which no responsive pleading is required.

45. The allegations contained in Paragraph 45 of the Complaint relate to legal questions to which no responsive pleading is required.

46. The allegations contained in Paragraph 46 of the Complaint relate to legal questions to which no responsive pleading is required.

47. The allegations contained in Paragraph 47 of the Complaint relate to legal questions to which no responsive pleading is required.

48. The allegations contained in Paragraph 48 of the Complaint relate to legal questions to which no responsive pleading is required.

49. The allegations contained in Paragraph 49 of the Complaint relate to legal questions to which no responsive pleading is required.

50. The allegations contained in Paragraph 50 of the Complaint relate to legal questions to which no responsive pleading is required.

51. The allegations contained in Paragraph 51 of the Complaint relate to legal questions to which no responsive pleading is required.

52. The allegations contained in Paragraph 52 of the Complaint relate to legal questions to which no responsive pleading is required.

53. The allegations contained in Paragraph 53 of the Complaint relate to legal questions to which no responsive pleading is required.

## **B. Medicare Part B**

54. The allegations contained in Paragraph 54 of the Complaint relate to legal questions to which no responsive pleading is required.

55. The allegations contained in Paragraph 55 of the Complaint relate to legal questions to which no responsive pleading is required.

56. The allegations contained in Paragraph 56 of the Complaint relate to legal questions to which no responsive pleading is required.

57. The allegations contained in Paragraph 57 of the Complaint relate to legal questions to which no responsive pleading is required.

58. The allegations contained in Paragraph 58 of the Complaint relate to legal questions to which no responsive pleading is required.

59. The allegations contained in Paragraph 59 of the Complaint relate to legal questions to which no responsive pleading is required.

60. The allegations contained in Paragraph 60 of the Complaint relate to legal questions to which no responsive pleading is required.

61. The allegations contained in Paragraph 61 of the Complaint relate to legal questions to which no responsive pleading is required.

62. The allegations contained in Paragraph 62 of the Complaint relate to legal questions to which no responsive pleading is required.

63. The allegations contained in Paragraph 63 of the Complaint relate to legal questions to which no responsive pleading is required.

64. The allegations contained in Paragraph 64 of the Complaint relate to legal questions to which no responsive pleading is required.

65. The allegations contained in Paragraph 65 of the Complaint relate to legal questions to which no responsive pleading is required.

### **C. Medicare Part C**

66. The allegations contained in Paragraph 66 of the Complaint relate to legal questions to which no responsive pleading is required.

67. The allegations contained in Paragraph 67 of the Complaint relate to legal questions to which no responsive pleading is required.

68. The allegations contained in Paragraph 68 of the Complaint relate to legal questions to which no responsive pleading is required.

**D. Provider-based status**

69. The allegations contained in Paragraph 69 of the Complaint relate to legal questions to which no responsive pleading is required.

70. The allegations contained in Paragraph 70 of the Complaint relate to legal questions to which no responsive pleading is required.

71. The allegations contained in Paragraph 71 of the Complaint relate to legal questions to which no responsive pleading is required.

72. The allegations contained in Paragraph 72 of the Complaint relate to legal questions to which no responsive pleading is required.

73. The allegations contained in Paragraph 73 of the Complaint relate to legal questions to which no responsive pleading is required.

**V. TEXAS MEDICAID PROGRAM**

74. The allegations contained in Paragraph 74 of the Complaint relate to legal questions to which no responsive pleading is required.

75. The allegations contained in Paragraph 75 of the Complaint relate to legal questions to which no responsive pleading is required.

76. The allegations contained in Paragraph 76 of the Complaint relate to legal questions to which no responsive pleading is required.

77. The allegations contained in Paragraph 77 of the Complaint relate to legal questions to which no responsive pleading is required.

78. The allegations contained in Paragraph 78 of the Complaint relate to legal questions to which no responsive pleading is required.

79. The allegations contained in Paragraph 79 of the Complaint relate to legal questions to which no responsive pleading is required.

80. The allegations contained in Paragraph 80 of the Complaint relate to legal questions to which no responsive pleading is required.

81. The allegations contained in Paragraph 81 of the Complaint relate to legal questions to which no responsive pleading is required.

82. The allegations contained in Paragraph 82 of the Complaint relate to legal questions to which no responsive pleading is required.

83. The allegations contained in Paragraph 83 of the Complaint relate to legal questions to which no responsive pleading is required.

84. The allegations contained in Paragraph 84 of the Complaint relate to legal questions to which no responsive pleading is required.

## **VI. THE TRICARE PROGRAM**

85. The allegations contained in Paragraph 85 of the Complaint relate to legal questions to which no responsive pleading is required.

86. The allegations contained in Paragraph 86 of the Complaint relate to legal questions to which no responsive pleading is required.

87. The allegations contained in Paragraph 87 of the Complaint relate to legal questions to which no responsive pleading is required.

88. The allegations contained in Paragraph 88 of the Complaint relate to legal questions to which no responsive pleading is required.

89. The allegations contained in Paragraph 89 of the Complaint relate to legal questions to which no responsive pleading is required.

90. The allegations contained in Paragraph 90 of the Complaint relate to legal questions to which no responsive pleading is required.

91. The allegations contained in Paragraph 91 of the Complaint relate to legal questions to which no responsive pleading is required.

92. The allegations contained in Paragraph 92 of the Complaint relate to legal questions to which no responsive pleading is required.

93. The allegations contained in Paragraph 93 of the Complaint relate to legal questions to which no responsive pleading is required.

## **VII. FEHBP**

94. The allegations contained in Paragraph 94 of the Complaint relate to legal questions to which no responsive pleading is required.

### **FACTS**

95. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 95 of the Complaint, and therefore denies them.

96. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 96 of the Complaint, and therefore denies them.

97. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 97 of the Complaint, and therefore denies them.

98. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 98 of the Complaint, and therefore denies them.

99. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 99 of the Complaint, and therefore denies them.

100. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 100 of the Complaint, and therefore denies them.

101. Defendant denies the allegations contained in Paragraph 101 of the Complaint.

102. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 102 of the Complaint, and therefore denies them.

103. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 103 of the Complaint, and therefore denies them.

104. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 104 of the Complaint, and therefore denies them.

105. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 105 of the Complaint, and therefore denies them.

106. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 106 of the Complaint, and therefore denies them.

107. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 107 of the Complaint, and therefore denies them.

108. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 108 of the Complaint, and therefore denies them.

109. Defendant denies the allegations contained in Paragraph 109 of the Complaint.

110. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 110 of the Complaint, and therefore denies them.

111. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 111 of the Complaint, and therefore denies them.

112. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 112 of the Complaint, and therefore denies them.

113. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 113 of the Complaint, and therefore denies them.

114. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 114 of the Complaint, and therefore denies them.

115. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 115 of the Complaint, and therefore denies them.

116. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 116 of the Complaint, and therefore denies them.

117. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 117 of the Complaint, and therefore denies them.

118. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 118 of the Complaint, and therefore denies them.

119. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 119 of the Complaint, and therefore denies them.

120. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 120 of the Complaint, and therefore denies them.

121. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 121 of the Complaint, and therefore denies them.

122. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 122 of the Complaint, and therefore denies them.

123. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 123 of the Complaint, and therefore denies them.

124. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 124 of the Complaint, and therefore denies them.

125. Defendant denies the allegations contained in the first and last sentences of Paragraph 125 of the Complaint. Defendant is without sufficient information to form a belief as to the truth of the remaining allegations in Paragraph 125 of the Complaint, and therefore denies them.

126. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 126 of the Complaint, and therefore denies them.

127. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 127 of the Complaint, and therefore denies them.

128. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 128 of the Complaint, and therefore denies them.

129. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 129 of the Complaint, and therefore denies them.

130. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 130 of the Complaint, and therefore denies them.

131. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 131 of the Complaint, and therefore denies them.

132. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 132 of the Complaint, and therefore denies them.

133. Defendant denies the allegations contained in Paragraph 133 of the Complaint.

134. Defendant denies the allegations contained in Paragraph 134 of the Complaint.

135. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 135 of the Complaint, and therefore denies them.

136. Defendant denies the allegations contained in Paragraph 136 of the Complaint.

137. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 137 of the Complaint, and therefore denies them.

138. Defendant denies the allegations contained in Paragraph 138 of the Complaint.

139. Defendant is without sufficient information to form a belief as to the truth of the allegations in Paragraph 139 of the Complaint, and therefore denies them.

**COUNT I**  
**False Claims Act, 31 U.S.C. § 3729(a)(1)(A)**  
**Presenting or Causing False Claims to be Presented for Payment**

140. The allegations contained in Paragraph 140 of the Complaint relate to legal questions to which no responsive pleading is required.

141. The allegations contained in Paragraph 141 of the Complaint relate to legal questions to which no responsive pleading is required.

142. The allegations contained in Paragraph 142 of the Complaint relate to legal questions to which no responsive pleading is required.

143. The allegations contained in Paragraph 143 of the Complaint relate to legal questions to which no responsive pleading is required.

**COUNT II**  
**False Claims Act 31 U.S.C. § 3729(a)(1)(B)**  
**Making or Using False Records or Statements**

144. The allegations contained in Paragraph 144 of the Complaint relate to legal questions to which no responsive pleading is required.

145. The allegations contained in Paragraph 145 of the Complaint relate to legal questions to which no responsive pleading is required.

146. The allegations contained in Paragraph 146 of the Complaint relate to legal questions to which no responsive pleading is required.

147. The allegations contained in Paragraph 147 of the Complaint relate to legal questions to which no responsive pleading is required.

**COUNT III**  
**False Claims Act 31 U.S.C. § 3729(a)(1)(C)**  
**Conspiracy to Submit False Claims**

148. The allegations contained in Paragraph 148 of the Complaint relate to legal questions to which no responsive pleading is required.

149. The allegations contained in Paragraph 149 of the Complaint relate to legal questions to which no responsive pleading is required.

150. The allegations contained in Paragraph 150 of the Complaint relate to legal questions to which no responsive pleading is required.

**COUNT IV**  
**False Claims Act: Avoiding an Obligation to Refund**  
**31 U.S.C. § 3729(a)(1)(G)**

151. The allegations contained in Paragraph 151 of the Complaint relate to legal questions to which no responsive pleading is required.

152. The allegations contained in Paragraph 152 of the Complaint relate to legal questions to which no responsive pleading is required.

153. The allegations contained in Paragraph 153 of the Complaint relate to legal questions to which no responsive pleading is required.

**COUNT V**  
**Unjust Enrichment**

154. The allegations contained in Paragraph 154 of the Complaint relate to legal questions to which no responsive pleading is required.

155. The allegations contained in Paragraph 155 of the Complaint relate to legal questions to which no responsive pleading is required.

156. The allegations contained in Paragraph 156 of the Complaint relate to legal questions to which no responsive pleading is required.

**COUNT VI**  
**Payment by Mistake**

157. The allegations contained in Paragraph 157 of the Complaint relate to legal questions to which no responsive pleading is required.

158. The allegations contained in Paragraph 158 of the Complaint relate to legal questions to which no responsive pleading is required.

159. The allegations contained in Paragraph 159 of the Complaint relate to legal questions to which no responsive pleading is required.

160. The allegations contained in Paragraph 160 of the Complaint relate to legal questions to which no responsive pleading is required.

**PLAINTIFFS' PRAYER**

Defendant Vox Intus, LLC prays that Plaintiffs take nothing by this suit, that Defendant goes hence with its costs without delay, and for such other and further relief, both general and special, at law and in equity to which Defendant may show itself justly entitled.

Respectfully submitted,

By: /s/ J. Edward Johnson  
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**ATTORNEYS FOR DEFENDANT  
VOX INTUS, LLC**

**CERTIFICATE OF SERVICE**

This is to certify that on the 7<sup>th</sup> day of September 2021, a true and correct copy of the foregoing has been forwarded to all counsel of record, as follows:

**Via ECF**

[eddie.castillo@usdoj.gov](mailto:eddie.castillo@usdoj.gov)

Ashley C. Hoff

United States Attorney

Eduardo B. Castillo

Assistant United States Attorney

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El Paso, Texas 79901

/s/ J. Edward Johnson

J. Edward Johnson